

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

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4 UNITED STATES OF AMERICA,

5 Plaintiff,

6 v.

7 FRANKIE ALLEN PERAZA,

8 Defendant.

Case No. 2:14-cr-0229-APG-NJK

**ORDER GRANTING MOTION IN  
LIMINE REGARDING DEFENDANT'S  
SWORN STATEMENTS**

ECF No. 159

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10 The Government moves *in limine* for permission to introduce at trial statements made by  
11 defendant Frankie Allen Peraza in a written plea agreement, during his aborted plea hearings, and  
12 during a suppression hearing. ECF No. 159. The Government does not seek to introduce those  
13 statements during its case-in-chief, but rather hopes to use such statements only for impeachment  
14 or rebuttal purposes. Peraza does not oppose the introduction of his sworn, in-court statements for  
15 impeachment or rebuttal purposes. ECF No. 164 at 1. But he opposes the use of the statements in  
16 his plea agreement.

17 Federal Rule of Evidence 410 generally precludes the admission of statements made during  
18 a guilty plea or plea discussions. However, in his plea agreement, Peraza waived his rights under  
19 Rule 410. ECF No. 159-1 at 4-5. The Supreme Court of the United States has upheld the  
20 enforceability of such contractual waivers. *United States v. Mezzanatto*, 513 U.S. 196, 210 (1995)  
21 (“[A]bsent some affirmative indication that the agreement was entered into unknowingly or  
22 involuntarily, an agreement to waive the exclusionary provisions of the plea-statement Rules is  
23 valid and enforceable.”). Peraza does not argue—and there is nothing in the record to  
24 demonstrate—that his waiver was procured through fraud or coercion. Thus, Rule 410 is not  
25 applicable here and the Government may use his statements for impeachment and rebuttal purposes.

26 IT IS HEREBY ORDERED that the Government’s motion in limine (ECF No. 159) is  
27 **GRANTED**. The Government may introduce at trial the facts set forth in the plea agreement to  
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1 impeach or rebut any evidence, argument or representation offered by or on the defendant's behalf.  
2 The Government also may introduce Peraza's sworn statements from his plea hearings and  
3 suppression hearing to impeach or rebut any testimony he gives at trial.

4 Dated: August 9, 2017.

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7 ANDREW P. GORDON  
8 UNITED STATES DISTRICT JUDGE  
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